

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DISTRICT COUNCIL OF NEW
YORK CITY AND VICINITY OF
THE UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF
AMERICA,

Petitioner,

– *against* –

SOUTH ISLAND ENTERPRISE NYC,
INC.,

Respondent.

ORDER

23-cv-05014 (ER)

RAMOS, D.J.:

District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America (“District Council”) filed a petition to confirm arbitration on June 14, 2023. Doc. 1. An electronic summons was issued for South Island Enterprise NYC, Inc. (“South Island”) on June 15, 2023. Doc. 4. The summons was returned executed on July 7, 2023. Doc. 5. A certificate of default was entered against South Island on July 28, 2023. Doc. 9. District Council filed a proposed order to show cause and a proposed default judgment order on August 2, 2023. Docs. 10, 12.

District Council’s proposed orders will not be issued. An unanswered petition to confirm an arbitration award is to be treated “as an unopposed motion for summary judgment.” *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95, 110 (2d Cir. 2006); *see also Trs. for the Mason Tenders Dist. Council Welfare Fund v. Earth Constr. Corp.*, No. 15-cv-3967 (RA), 2016 WL 1064625, at *3 (S.D.N.Y. Mar. 15, 2016) (“A district court should treat an unanswered petition to confirm or vacate as an unopposed motion for summary judgment and base its judgment on the record.”) (quotations and citations omitted). Even if a motion for summary judgment is unopposed, courts are required to “review the motion . . . and determine from what it has before it whether the moving party is entitled

to summary judgment as a matter of law.” *Vt. Teddy Bear Co., Inc. v. 1- 800 Beargram Co.*, 373 F.3d 241, 246 (2d Cir. 2004) (citation omitted). “[W]hen a nonmoving party chooses the perilous path of failing to submit a response to a summary judgment motion, the district court may not grant the motion without first examining the moving party’s submission to determine if it has met its burden of demonstrating that no material issue of fact remains for trial.” *Amaker v. Foley*, 274 F.3d 677, 681 (2d Cir. 2001). Accordingly, District Council’s petition is considered unopposed, and the Court will be issuing a decision on the matter.

It is SO ORDERED.

Dated: October 27, 2023
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.